THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1505 of 2005

26-09-2005

Between:

Syed Azam.

.....APPELLANT

AND

Government of Andhra Pradesh, rep. by its Secretary,

Education Department, Secretariat, Hyderabad & Others.

.....RESPONDENTS

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1505 OF 2005

JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

This appeal is filed against an order passed by a learned single in writ petition No.18183 of 2003. The writ petition was filed for several reliefs. One of the reliefs claimed was that the petitioner should be handed over back the possession of the house bearing No.2-3-521 situated at Amberpet, Hyderabad. He should also be paid rents for use and occupation of the building.

The admitted facts are that the petitioner is the owner of the house. The said premises had been leased out to the 3rd respondent in the writ petition on a monthly rent of Rs.450/-, thirty years before. But the 3rd respondent neither pays the rent nor vacates the premises. Therefore, the petitioner invoked the jurisdiction of the Court.

The learned single Judge dismissed the writ petition on the ground that there were disputed questions of fact, which could only be gone into in a proceeding under Andhra Pradesh Building (Lease, Rent, Eviction) Control Act, 1960 (hereinafter referred to as 'the Act'). We do not find any fault with such an approach of the learned single Judge. But during the course of hearing, it came to our notice that the State Government, which is the tenant of the property, admittedly not paid the rent from the year 1995 on an excuse that the petitioner was not submitting the receipts. Even if a tenant does not submit a receipt, there is a mechanism provided under the Tenancy Laws for deposit of the amount. It also came to the notice of this Court, which is also an undisputed fact, that the main building in which the school was housed, has already been demolished by the respondents, although it is stated that the house was being demolished by the Municipal Corporation of Hyderabad. There is another controversy that the school is now being run in sheds, which, according to the petitioner, have been constructed without his permission, by the respondents, although respondents claimed that the sheds were already in existence. The State cannot be expected to behave like an ordinary

tenant and on flimsy excuses, do not even pay the rent for almost a Decade. State can also not be expected not to protect the property, which is in its occupation as a tenant.

Therefore, we direct that the arrears of rent with interest at the rate of 12% per annum till date, shall be paid immediately to the petitioner, preferably within a period of two weeks from today. The buildings or sheds in existence at the premises, shall neither be demolished nor any fresh construction shall be made for a period of three months from today. In the meantime, if the petitioner is serious to seek eviction, he shall be at liberty to approach the appropriate Court within a period of three months from today. It is equally open for the petitioner to obtain appropriate orders with regard to his allegation of demolition or new constructions being made by the respondents.

With these observations, the writ appeal is disposed of.

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(BILAL NAZKI, ACJ)

26th September 2005.

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(R.SUBHASH REDDY, J)

ajr